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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 JUAN D. VEGA, JR.,

11 Petitioner,

12 v.

13 FEDERAL BUREAU OF PRISONS,

14 Respondent.  
15

Case No. C09-5076FDB

ORDER OF TRANSFER

16 Before the court is a petition for writ of habeas corpus. Petitioner is currently in custody, on work  
17 release and/or probation, residing in Tacoma, Washington. The Petition appears to attack the legality or  
18 basis of the sentence received under cause number CR04-0413MJP. Petitioner specifically challenges the  
19 revocation of his "reduction of sentence 'entitlement' for completion of the 500 hour residential drug abuse  
20 program (RDAP)." Petitioner argues the Federal Bureau of Prisons's actions have violated his federal  
21 rights and denied him due process of law. For reasons which follow, this court transfers this matter to the  
22 U.S. District Court for the Western District of Washington in Seattle.


23 An application for a writ of habeas corpus may be filed either in the district court wherein the  
24 petitioner is in custody or in the district court within the State court which convicted and sentenced the  
25 petitioner; such district courts have concurrent jurisdiction to entertain the application. 28 U.S.C. §  
26 2241(d); Fest v. Bartee, 804 F.2d 559, 560 (9th Cir. 1986). "The physical presence of the prisoner is not  
27 necessary for habeas corpus jurisdiction as long as the court has jurisdiction over the person holding the  
28 prisoner." Fest, 804 F.2d at 560, *citing*, Braden v. 30th Judicial Circuit Court of Kentucky, 410 U.S. 484,

1 494-95 (1973). To determine where the action should be located the court should review traditional venue  
2 considerations. Id.

3 In the present case Petitioner is challenging length of his sentence and the Federal Bureau of  
4 Prisons' rules and regulations. The underlying criminal matter took place in Seattle, and the sentence being  
5 challenged was imposed by the Honorable Marsha Pechman in Seattle, Washington. In the interest of  
6 justice, the petition should be transferred to the U.S. District Court located in Seattle.

7 The Clerk of this court is hereby directed to transfer this case to the U.S. District Court for  
8 Western District of Washington in Seattle.

9 DATED this 27<sup>th</sup> day of February 2009.

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12 FRANKLIN D. BURGESS  
13 UNITED STATES DISTRICT JUDGE

14 Recommended for entry this  
15 23rd day of February, 2009.

16 /s/ J. Kelley Arnold  
17 J. Kelley Arnold  
18 United States Magistrate Judge  
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